

DWR Findings regarding an update of the Model Water Efficient Landscape Ordinance

Pursuant to Government Code 65596.5(a)(1)

WHEREAS, on September 26, 2016 the Governor approved AB 2515, amending the Water Conservation in Landscaping Act adding Section 65596.5 to the Government Code relating to water-efficient landscaping.

WHEREAS, this Section requires the Department to update the Model Water Efficient Landscape Ordinance (MWELo) by January 1, 2020; or alternatively, to make a finding that an update at that time is not a useful or effective means to improve either the efficiency of landscape water use or the administration of the ordinance.

WHEREAS, Section 65596.5(a)(2) expressly gives the Department the discretion to determine if an update at a particular time would be a useful or effective means of improving water efficiency or administration of the ordinance.

WHEREAS, since MWELo's implementation in 1993, compliance rates with the ordinance have been low, ranging from 26%-66%; since the latest MWELo update in 2015, compliance with the ordinance has ranged from only 26%-35%.

WHEREAS, in response to the legislative mandate of AB 2515, DWR engaged in extensive pre-rulemaking fact finding, forming a Landscape Stakeholders Advisory Group (LSAG) in October 2016 to identify problems with the ordinance and in particular, to explore whether improving the clarity of the ordinance and simplifying reporting mechanisms might address the historically low MWELo compliance rates.

WHEREAS, DWR received extensive detailed recommendations from the LSAG representing hundreds of hours of work from landscaping, land use and water professionals;

WHEREAS, the extensive list of recommendations include improvement to clarity, removing un-enforceable language, changing some technical requirements, expanding the threshold for the prescriptive track option, and expanding the use of alternative water sources. The comments represent thorough discussions and substantial time commitments from dedicated members of the LSAG.

WHEREAS, although these comments provide invaluable insight and suggestions for many specific amendments, they do not provide sufficient insight on the reasons for low compliance or how to improve it. The comments will be relied upon for an update anticipated in 2023.

WHEREAS, the Department has determined that more study is necessary to better understand how to increase compliance with the ordinance before an update will be a useful or effective means to improve both water efficiency and the administration of the ordinance. To better understand the lack of local compliance, the Department proposes to conduct a study that will highlight successes and identify barriers that local agencies face, conduct workshops, and prepare guidance materials.

WHEREAS, the Department plans to take steps to improve the implementation rate of MWEL0 compliance amongst local agencies, and then consider the LSAG recommendations during a more comprehensive update of MWEL0 in 2023, where the recommendations will be more valuable.

THEREFORE, after careful consideration of the extensive stakeholder comments received, and information gathered in substantial pre-rulemaking fact-finding, the Department has determined pursuant to its authority under Govt. Code Section 65596.5(a)(2), that an update of MWEL0 at this time would not be a useful or effective means to improve either the efficiency of landscape water use or the administration of the ordinance.